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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/871,154

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Howard A. Heller

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EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

01/22/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/871,154	<b>Applicant(s)</b> HELLER ET AL.	
	<b>Examiner</b> KHAWAR IQBAL	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2, 7, 8 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 7, 8 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10-30-08 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the operating mode" in page 2, line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the specific latitude-longitude location" in page 2, line 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7,8 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrol et al (20020068570) in view of Yamato et al (20070129072).

Regarding claim 2 Abrol et al discloses a method of selecting the operating mode of a wireless handset (2, fig. 1, 2) in connection with a handoff of the handset implemented in the handset comprising (fig. 1, 3 and 6):

associating, with a first wireless system (14, fig. 1,3) coupled to a server (20, fig. 1,3) connected to the Internet (IP network, fig. 1-2), a data base containing capability data indicative of the operating mode capability of a second wireless subsystem (16, fig. 1) coupled to the server (20, fig. 1,5) (para. # 0035-0035);

transmitting query messages (authentication request) containing an indication of the first wireless system and the location (location update) of the handset (12, fig. 1) in a first operating mode on the second wireless subsystem (16, fig. 1) from the handset (12, fig. 1) to the data base after execution of the handoff to retrieve the capability data, wherein the query messages contain information identifying the wireless subsystem to which the handset is then connected (para. # 0041-0043, 0056 and 0064-0066);

receiving the capability data from the data base on the second wireless subsystem in the first operating mode (para. # 0041-0043, 0053, 0056); and

switching into a second mode if the retrieved capability data indicates that the second wireless subsystem is capable of operation in the second mode (para. # 0041, 0053-0056, 0064-66). Abrol et al does not disclose the specific latitude-longitude location of the handset.

In an analogous art, Yamato et al teaches the specific latitude-longitude location of the handset (para. # 0072-0075, 0092). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Abrol et al teaches by specifically adding features the specific latitude-longitude location of the handset in order to enhance to provides more accurate location of mobile station taught by Yamato et al.

Regarding claim 7 Abrol et al discloses wherein the associating comprises designating the data base as a second Internet destination port for the handset (para. # 0041-0043, 0056 and 0064-0066, fig. 1).

Regarding claim 8 Mohammed discloses wherein the data base further contains configuration data including a listing of base stations that border the first wireless system (para. # 0041-0043, 0056 and 0064-0066, fig. 1).

Regarding claim 25 Mohammed wherein the server is designated as a first Internet destination port for the handset, the second wireless subsystems being coupled to the server through the Internet (para. # 0041-0043, 0056 and 0064-0066, fig. 1).

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 2, 7, 8 and 25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is (571)272-7909. The examiner can normally be reached on 9 am to 6.30 pm Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GEORGE ENG can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

Khawar Iqbal  
Examiner  
Art Unit 2617